

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 19, 2021

2:13 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Joshua Revak, Vice Chair
Senator Gary Stevens
Senator Elvi Gray-Jackson

MEMBERS ABSENT

Senator Peter Micciche

COMMITTEE CALENDAR

SENATE BILL NO. 93

"An Act relating to the establishment of an all-payer health claims database; and providing for an effective date."

- MOVED CSSB 93 (HSS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 93

SHORT TITLE: HEALTH INS. ALL-PAYER CLAIMS DATABASE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/24/21	(S)	READ THE FIRST TIME - REFERRALS
02/24/21	(S)	HSS, L&C, FIN
03/11/21	(S)	HSS AT 1:30 PM BUTROVICH 205
03/11/21	(S)	<Bill Hearing Rescheduled to 3/16/21>
03/16/21	(S)	HSS AT 1:30 PM BUTROVICH 205
03/16/21	(S)	<Bill Hearing Canceled>
03/23/21	(S)	HSS AT 1:30 PM BUTROVICH 205
03/23/21	(S)	Heard & Held
03/23/21	(S)	MINUTE(HSS)
04/07/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/07/21	(S)	Scheduled but Not Heard
04/13/21	(S)	HSS AT 1:30 PM BUTROVICH 205
04/13/21	(S)	Moved CSSB 93 (HSS) Out of Committee
04/13/21	(S)	MINUTE(HSS)
04/14/21	(S)	HSS RPT CS 2DP 1DNP 2NR SAME TITLE

04/14/21 (S) DP: WILSON, BEGICH
04/14/21 (S) DNP: REINBOLD
04/14/21 (S) NR: COSTELLO, HUGHES
04/19/21 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

LORI WING-HEIER, Director
Division of Insurance
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Presented a PowerPoint to introduce SB 66 on behalf of the Senate Rules Committee by request of the Governor.

ACTION NARRATIVE

[2:13:29 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 2:13 p.m. Present at the call to order were Senators Gray-Jackson, Revak, and Chair Costello. Senator Stevens joined the committee during the course of the meeting.

SB 93-HEALTH INS. ALL-PAYER CLAIMS DATABASE

[2:14:12 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 93 "An Act relating to the establishment of an all-payer health claims database; and providing for an effective date."

[CSSB 93(HSS), work order 32-GS1530\B, was before the committee.]

She stated her intention to hear the PowerPoint introduction from Lori Wing-Heier, take questions, hear public testimony, and look to the will of the committee. She listed the individuals available to answer questions.

[2:15:19 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED) delivered a PowerPoint to introduced SB 93.

MS. WING-HEIER stated that since she became the director of the Division of Insurance in 2014, the cost of and access to

healthcare has been one of the top conversations every legislative session. While there has not always been agreement on the direction of healthcare, there is agreement that healthcare insurance is difficult to find in Alaska and the premiums are high.

MS. WING-HEIER reported that Providence Health adopted the triple aim in health care two years ago. That has changed to the quadruple aim the goal of which is to improve the patient experience, improve the provider experience, achieve better health outcomes with a quality metric, and lower the cost of healthcare. She admitted that she did not know whether SB 93 would lower the cost of healthcare but it might stabilize the cost and help to understand the reason for the costs. She highlighted the transparency piece to the all payer claims database that she believes will help all Alaskans.

CHAIR COSTELLO handed the gavel to Senator Revak.

MS. WING-HEIER advised that the discussion about the cost of healthcare and an all-payer claims database (APCD) has included the administration, the legislature, the Congressional delegation, tribal partners, the Alaska Chamber of Commerce, Commonwealth North and other organizations, but what is missing is data. There are many reports from Alaska Care, Medicare, Medicaid, insurance companies, third-party administrators, and others but the data is not centralized. It resides within each of those entities.

[2:18:12 PM](#)

MS. WING-HEIER said slide 6 highlights the many reports by various organizations that have tried to talk about solutions to the high cost of healthcare, but have gone nowhere. However, a common suggestion in the reports is to start with an all-payer claims database. She paraphrased the following definition:

An All-Payer Claims Data Base (APCD) is a large database that includes medical, pharmaceutical, and dental claims. These databases are hosted, directly or through a contract, by states. Public (i.e., Medicaid) and private payers (i.e., insurance companies and third-party adjusters) submit the data, in a pre-determined standard format, to the state.

MS. WING-HEIER advised that, should SB 93 pass, the Division of Insurance intends to issue a request for proposal (RFP) and hire a qualified contractor to organize and maintain the database.

Public payers such as Medicaid and other private payers would submit their data through the contractor directly to the database in a format predetermined by the United States Department of Labor. This directive came from the No Surprises Act that passed in December 2020. She said the division expects the USDOL to post the format and take comments very soon.

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SENATOR GRAY-JACKSON asked how the information from her dentist appointment tomorrow would be put into the database.

MS. WING-HEIER replied the division expects monthly updates to the database, but the information will be deidentified. Nobody would ever see that Senator Eli Gray-Jackson visited the dentist on 4/20/21. What will appear is the code for the service and the cost.

SENATOR GRAY-JACKSON asked if somebody would be required to put this information in the database.

MS. WING-HEIER answered yes; the insurance company or administrator of claims will be required to enter the information into the database.

Continuing the presentation on slide 8, she reported that about 22 other states have operating all-payer claims databases. She noted that the legislature has talked about an APCD before, most recently last year. SB 93 has the same pretext and will have an all-payer claims database.

MS. WING-HEIER said the answer to the question why would the Governor do this now is "If not now, when? If not us, who?" To continue towards the quadruple aim of health care, it is important to take the first step. There is no more important time to look at the cost of healthcare and healthcare insurance than now when the state is coming out of the recession and people are returning to work and have insurance through their employer. The No Surprises Act provided a nudge. It said there will be an all-payer claims database and it provides a grant of \$2.5 million to the state to develop the database.

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MS. WING-HEIER paraphrased the following points that the No Surprises Act provides:

- Provides a structure to protect consumers against surprise medical bills and determining out-of-

network provider payments including air ambulances

- Notice and consent provisions for balance billing of non-emergency services by nonparticipating providers at participating facilities
- Establishes requirements for provider directories
- Establishes a dispute resolution process for uninsured
- Provides guidance for continuity of care
- Requires insurers and other plans to have a price comparison tool
- Modifies requirement on insurance cards
- Requires plans to provide an advance explanation of benefits
- Encourages All-Payer Claims Databases and provides grants up to \$2.5 million to each state

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MS. WING-HEIER said 15 pages in the No Surprises Act address the all-payers claims database. Much of what SB 93 does is to comply with the federal law. This includes standard formatting, that the grants would come from the Department of Treasury, billing at cost for customized reports, and what data will be free to authorized users or constituents. There will be a public front so consumers can look at costs throughout the state. She said one of the fiscal notes addresses the division's application for the \$2.5 million APCD grant.

She reviewed the authorized users that the No Surprises Act defines. The slide read as follows:

An entity wanting access to the APCD, that has received a grant, shall submit to the State APCD an application for such access which shall include:

- In the case of an entity requesting access for research purposes a description of the uses and methodologies for evaluating health system performance using the APCD; and
- Documentation of approval of the research by an institutional review board, if applicable for a particular plan or research
- The entity shall enter into a data use and confidentiality agreement with the state - the agreement shall include a prohibition on attempts to reidentify and disclose individually

identifiable health information and proprietary financial information

- If the entity is an employer, health insurance company, third-party administrator, or health care provider requesting access for the purpose of quality improvement or cost-containment, a description of the intended use of the data.
- Employers and employer organizations may request customized reports, at cost, subject to the requirements of privacy, security, and proprietary financial information.
- The state shall make available, to all eligible users, aggregate data sets - free of charge.

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SENATOR REVAK asked if the federal law or SB 93 addresses the penalties for breaking that trust.

MS. WING-HEIER answered that it is not in SB 93 and she would need to look at the federal bill to see whether there are penalties for trying to identify the deidentified data.

SENATOR REVAK said he supposes that HIPAA laws would apply.

MS. WING-HEIER agreed they would apply.

SENATOR GRAY-JACKSON asked if the individual who requests the customized report would pay a fee.

MS. WING-HEIER said yes; Senator Begich offered that as an amendment. She said the division sees it as similar to a public records request that generates a cost to the department. The charge is simply to cover the cost of the customized reports.

MS. WING-HEIER continued to say that the standardized format would provide for medical claims, pharmaceutical claims, dental claims, it will show eligibility, and provider files. She highlighted that a condition of somebody accessing this data for a customized report is that the provider files must remain confidential.

2:27:47 PM

MS. WING-HEIER summarized the sectional analysis on slide 16 saying SB 93 gives the division the authority to contract out and manage the all-payer claims database. She said the next slide is a diagram of the sources and flow of APCD data submissions. Slide 18 has a table that shows types of coverage,

the estimated number of covered lives, and the percentage of the Alaska population that represents. She clarified that the estimate that nearly 70 percent of Alaskans would be covered included some of the union trusts. Without that, the coverage estimate is 35-40 percent but that is still enough data to be credible.

[2:28:52 PM](#)

SENATOR STEVENS joined the committee.

MS. WING-HEIER turned to slide 19 and reviewed the task and timing expectations in years 1-3. Year 1 is foundational, year 2 is start-up, and year 3 is when data is expected to be available for authorized users and for the state.

[2:29:42 PM](#)

MS. WING-HEIER presented the following sectional analysis for SB 93:

Section 1: Establishes a new chapter 92 in Title 21 with the following sections:

Section 21.92.010 - All-payer claims database (APCD) is established:

- (a) Defines the purpose of a statewide APCD:
 - 1) collect and analyze existing health care cost and quality data;
 - 2) create a central repository that is objective and reliable;
 - 3) provide transparent access to health care information while protecting individual privacy and proprietary data; and
 - 4) enable researchers, policymakers, and the public to make informed decisions regarding health care.
- (b) APCD must provide:
 - 1) publishable analytics to improve transparency;
 - 2) systematic collection of data; and
 - 3) enhanced transparency.
- (c) The director may:
 - 1) require an insurer to submit data;
 - 2) establish penalties to ensure compliance;
 - 3) create agreements for voluntary reporting;

MS. WING-HEIER advised that voluntary reporting primarily is anybody that is not an insurance company, including Medicaid, Alaska Care, and union trusts.

- 4) solicit, receive and administer funding from public and private sources;
- 5) by regulation, establish a schedule of reasonable fees to be charged to an authorized requesting business entity for the use and distribution of data; and
- 6) carry out other activities necessary to fulfill the purposes of the chapter.

[2:31:25 PM](#)

CHAIR COSTELLO asked her to talk about the assurance the public would have that the information would be deidentified and if there would be a penalty for sharing information that is not deidentified.

MS. WING-HEIER stated that the division's intent is to request that the contractor use the strictest firewalls and security so an unauthorized user cannot access the data. Importantly, the insurance companies are to remove names, Social Security numbers, and any personal identifiable data before it goes into the database. In addition, the data from small villages will be aggregated into a larger geographic area to ensure the data is not identifiable. She reiterated that there will be a penalty for somebody who tries to identify the deidentified data and she understands that would be a criminal matter.

SENATOR STEVENS questioned the reason for voluntary reporting and asked if mandatory reporting would be more valuable.

MS. WING-HEIER answered yes, but that is a large lift. The hope is that in a year or two when the database is functioning, the entities that were unwilling to contribute their data will see that it has value when they are looking at their own costs of health care.

SENATOR STEVENS summarized that in time it may prove to be valuable but not now.

MS. WING-HEIER said that is correct.

[2:34:38 PM](#)

MS. WING-HEIER continued the sectional analysis for SB 93.

Section 21.92.020 - Selection and duties of lead organization.

(a) By competitive bid, the director shall select an organization to manage the APCD.

(b) Provides organizational requirements for the APCD managing organization

(1) apply to be certified as a qualified entity under 42 C.F.R. 401.703(a) by the Centers for Medicare and Medicaid Services;

(2) enter into a contract with a data vendor or multiple data vendors to perform data collection, processing, aggregation, extracts, and analytics;

(3) be responsible for internal governance, management, and operations of the database and shall work with the data vendor to fulfill the purpose of this chapter;

(4) engage stakeholders in the development and maintenance of the database;

MS. WING-HEIER said she believes it is very important that stakeholders throughout Alaska are involved through the regulation process and as the database is set up. Comments should be solicited from employers, individuals, union trusts, and others. Any comments should be seriously considered. For example, the Section 1332 Waiver requires the department to hold a hearing at least once a year to take comments and she can see doing something similar for this database.

(5) provide an annual report to the director regarding the status of the database and any recommendations for changes to the database to fulfill the purposes of this chapter;

(6) establish a process for making claims and other data from the database available for use and distribution upon request to authorized requesters, consistent with the requirements of this chapter;

(7) engage consumer protection stakeholders and the community in the process described in (6) of this subsection to ensure claims and other data from the database are available in a format accessible to all authorized requesters;

(8) prepare a health care data report each calendar year that aggregates and analyzes the data submitted to the database during the previous calendar year; and

(9) perform other duties as required by the director to fulfill the purposes of this chapter.

Section 21.92.030 - Confidentiality.

- (a) The APCD shall be secure and confidential and shall not be subject to public records public inspection. Aggregated information can be shared as provided in regulations. Individually identifiable health care information will be confidential; and
- (b) Information in the database will not be subject to subpoena in any civil, criminal, judicial, or administrative proceeding.

Section 21.92.040 - Eligibility for state grants.

- (a) Health insurers required to submit data to the APCD may not receive a state grant unless compliant.
- (b) Health care payers that agree to voluntarily report data to the APCD may not receive a state grant unless the data has been reported as required by the payer's agreement.

MS. WING-HEIER noted that Senator Wilson put in that amendment in the Senate Health and Social Services Committee.

Section 21.92.050 - Regulations.

Allows for the director of the Division of Insurance to adopt regulations.

Section 2: Allows the Division of Insurance to promulgate regulations not later than January 1st of the calendar year following the effective date.

Section 3: Provides for an immediate effective date

2:37:22 PM

SENATOR STEVENS mentioned the recent breach in which the Department of Health and Social Services released data to the Municipality of Anchorage without authorization. He asked what assurance she could offer that the security of this database would be better.

MS. WING-HEIER replied she cannot say a breach will never happen because everyone has seen that it does, but the department will do everything it can to make sure the data is protected.

CHAIR COSTELLO offered her understanding that it was not someone hacking into DHSS data but someone who was privy to information and leaked it. She said that is why the committee's questions about penalties are on target. The public needs assurance that the data will be secure but it is always important to weigh the values. In this instance, it is about the value of information about the cost of health care that nobody has.

[2:39:14 PM](#)

SENATOR GRAY-JACKSON asked if the all-payer claims database exists at the federal level.

MS. WING-HEIER answered no, but the federal government is encouraging states to establish an APCD.

SENATOR GRAY-JACKSON asked who will be a mandatory reporter and who will have discretion.

MS. WING-HEIER answered that insurance companies are the only mandated reporters and Medicaid and Alaska Care will voluntarily contribute their data to the database.

[2:40:26 PM](#)

CHAIR COSTELLO opened public testimony on SB 93; finding none, she closed public testimony.

[2:40:45 PM](#)

At ease

[2:41:06 PM](#)

CHAIR COSTELLO reconvened the meeting and solicited a motion.

[2:41:13 PM](#)

SENATOR GRAY-JACKSON moved to report the CS for SB 93, work order 32-GS1530\B, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO found no objection and CSSB 93(HSS) was reported from the Senate Labor and Commerce Standing Committee.

[2:41:55 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:41 p.m.